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8

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 FRANK PECK,
12 Plaintiff,
13 v.
14 STATE OF NEVADA, *et.al.*,
15 Defendants.

Case No. 2:18-cv-00237-APG-VCF

**DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO FILE
MOTION FOR SUMMARY
JUDGMENT
(First Request)**

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17 Defendants Joel Quiroz, Francis Moka, and Duane Wilson, by and through
18 counsel, Aaron D. Ford, Nevada Attorney General, and Mayra Garay, Deputy Attorney
19 General, of the State of Nevada, Office of the Attorney General, hereby move for an
20 extension of time to file a reply in support of their motion for summary judgment (ECF
21 No. 218). This is Defendants' first request.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. APPLICABLE LAW**

3 Pursuant to Fed. R. Civ. P. 6(b), the “court may, for good cause, extend the time . . .
4 with or without motion or notice . . . if a request is made, before the original time or its
5 extension expires.” “Good cause’ is a non-rigorous standard that has been construed
6 broadly across procedural and statutory contexts.” *Ahanchian v. Xenon Pictures, Inc.*, 624
7 F.3d 1253, 1259 (9th Cir. 2010). Good cause exists where the record shows that the party
8 seeking the extension has “acted conscientiously throughout the litigation, promptly
9 seeking extensions of time when necessary and stipulating to [the opposing party’s] earlier
10 request for an extension of time . . .” *Id.* at 1260. “[R]equests for extensions of time made
11 before the applicable deadline has passed should ‘normally ... be granted in the absence of
12 bad faith on the part of the party seeking relief or prejudice to the adverse party.’” *Id.* at
13 1259.

14 **II. ARGUMENT**

15 This is a *pro se* prisoner 42 U.S.C. § 1983 civil rights claim brought by inmate, Frank
16 Peck. Defendants filed their motion for summary judgment on January 12, 2023. ECF No.
17 218. After four extensions, Peck filed his opposition to Defendants’ motion for summary
18 judgment on December 12, 2023—ten days before the last extension deadline of December
19 22, 2023. ECF No. 249; *see also* ECF No. 246. During this time, a new Deputy Attorney
20 General has taken over this case. *See* ECF No. 247. Currently, Defendants’ reply in
21 support of their motion for summary judgment is due December 26, 2023. Defendants
22 respectfully request an additional 14 days to file their reply, which if granted, would
23 change the deadline for their reply from December 26, 2023, to January 9, 2024.

24 This request is timely. Mr. Peck would not be prejudiced by this extension because
25 the new deadline of January 9, 2024 is only four days later than the original reply deadline
26 of January 5, 2024. Notably, Mr. Peck has received four extensions without opposition for
27 his response to Defendants’ motion for summary judgment.

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Good cause is present to warrant an extension of time. Undersigned counsel has a full caseload in addition to other responsibilities such as contract review and addressing public records requests for her division. In the past two weeks, Counsel has prepared and participated in two Early Mediation Conferences (EMC), drafted and submitted three EMC statements, drafted and filed a motion to dismiss, has reviewed and finalized four contracts and provided urgent guidance on a public requests request. In the upcoming two weeks Counsel has another EMC and EMC statement to draft, submit, and prepare for. Given undersigned counsel’s workload, her recent assignment to this case, and the upcoming holidays, there is good cause to grant this one-time extension. *See, e.g., Ahanchian*, 624 F.3d at 1259 (noting that holidays cut a party’s time to respond to dispositive motions).

12 Because there is good cause and a lack of prejudice to Plaintiff, Defendants
13 respectfully request an additional 14 days to file their reply, which if granted, would
14 change the deadline for their reply from December 26, 2023, to January 9, 2024.

15 DATED this 22nd day of December, 2023.

AARON D. FORD
Attorney General

By: /s/ Mayra Garay
MAYRA GARAY (Bar No. 15550)
Deputy Attorney General
Attorneys for Defendants

IT IS SO ORDERED.

Dated: December 22, 2023



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on **December 22, 2023**, I electronically filed the foregoing **DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR SUMMARY JUDGMENT** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically.

Frank M. Peck, #57106
High Desert State Prison
PO Box 650
Indian Springs, NV 89070
Plaintiff, Pro Se

/s/ Jennifer N. Briones
Employee of the Office of the
Nevada Attorney General